IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 1111 of 2005

Between:

1. Y.Yedukondalu, S/o.Sri V.Kota Das
   R/o.MIG-II 104, 9th Phase, KBHB Colony, Hyderabad.
2. Annam Venkateshwar Rao S/o.Sri Brahmaiah
   C/o.FCI, Tadepalli Vijayawada.
3. T.Giraiah S/o.Sri T.Paraiah
   R/o.Tadepalli, Vijayawada.
4. B.V.Subba Rao S/o.Sri Venkateshwarlu
   Vijayawada.
5. B.B.Vittal Rao S/o.Krishna Murthy
   C/o.FCI District Office, Khammam District.

..... PETITIONERS

AND

1. The Senior Regional Manager, Food Corporation of India,
   A.P.Region, HACA Bhawan.
2. The District Manager Food Corporation of India,
   District Office, Guntur District.
3. The District Manager Food Corporation of India,
   Tarnaka District Office, Hyderabad.
4. The District Manager Food Corporation of India,
   Vijayawada, Krishna District.
5. The District Manager Food Corporation of India,
   Khammam District.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to

issue an order direction or writ particularly one in the nature of writ of mandamus or any other appropriate writ i) declaring the action of the respondents in ordering for recovery of money from the petitioner towards transit losses, full bag shortages without conducting detailed enquiry as required under Rule 58 of the FCI Staff Regulations 1971 is illegal ii) declare that action of the respondents in issuing the final orders of recovery vide order No.V& S 4(22)/2003-Vol.II Dt.17.12.2004 issued by the second respondent as illegal, arbitrary and violative of principles of natural justice and consequently set aside the same.

Counsel for the Petitioners: MR.G.VIDYASAGAR

Counsel for the Respondents: MR.B.ANJANEYULU

The Court made the following:

ORDER:

At the request of the learned counsel appearing on both sides, the main Writ Petition

is taken up for hearing and disposal.

Questioning the order No. V & S 4 (22)/2003-Vol.II, dated 17.12.2004 issued by the 2nd respondent, this Writ Petition is filed.

It is brought to the notice of this Court by the learned Standing Counsel appearing for the respondents that as against the impugned order, statutory appeal lies to the 1st respondent within forty five days from the date of receipt of the said order. The learned standing counsel also submitted that till the disposal of the appeal, they will not pursue the recovery of monthly instalments from the petitioners.

Therefore, without going into the merits of the case as there is a statutory right of appeal against the impugned order, this Court is of the view that the petitioners can as well avail the said remedy by filing the appeal before the competent authority.

In the result, the Writ Petition is disposed of directing the petitioners to file statutory appeal before the competent authority, which shall be considered and disposed of by the appellate authority within three months from the date of filing of the appeal. In the mean while, the respondents are directed not to recover the monthly instalments from the petitioners in pursuance of the impugned proceedings. No costs.

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K.C. BHANU, J

Dated:31.01.2005

Ccm

To

1. The Senior Regional Manager, Food Corporation of India,
   A.P.Region, HACA Bhawan.
2. The District Manager Food Corporation of India,
   District Office, Guntur District.

3. The District Manager Food Corporation of India, Tarnaka District Office, Hyderabad.
4. The District Manager Food Corporation of India, Vijayawada, Krishna District.
5. The District Manager Food Corporation of India, Khammam District.

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